

August 1, 2012

FROM: MIKE SANCHEZ, Planning Manager
Development Services Division

THROUGH: SOPHIA PAGOULATOS, Supervising Planner
Development Services Division

BY: JACK VAN PATTEN, AICP, Planner II
Development Services Division

SUBJECT: **CONSIDERATION OF CONDITIONAL USE PERMIT APPLICATION NO. C-12-026
FILED AS AN AMENDMENT TO CONDITIONAL USE PERMIT APPLICATION
C-99-051, LOCATED AT 1736 EAST BELMONT AVENUE (APN: 459-071-30)**

AGENDA ITEM NO. **VIII-A**
COMMISSION MEETING 8-1-12

APPROVED BY

[Signature]
DEPARTMENT DIRECTOR

*for
m. Scott*

RECOMMENDATION

Staff recommends that the Planning Commission take the following action:

1. DENY the appeal and UPHOLD the Director's Action denying Conditional Use Permit Amendment Application No. C-12-026 to remove a condition of approval of Conditional Use Permit No. C-99-051, which condition reads: *'Beer and malt liquor in containers of 41 oz. or less shall not be sold in units of less than a six pack.'* All other conditions of approval to remain unchanged.

EXECUTIVE SUMMARY

The applicant, Dirk Poeschel, of Dirk Poeschel Land Development Services, Inc., on behalf of Devinder Dhariwal filed Conditional Use Permit Application No. C-12-026, as an amendment to C-99-051, requesting authorization to remove a condition of approval of Conditional Use Permit No. C-99-051, which condition reads: *'Beer and malt liquor in containers of 41 oz. or less shall not be sold in units of less than a six pack.'* All other conditions of approval to remain unchanged.

The project is located on the southwest corner of East Belmont Avenue and North Abby Street.

Staff recommends that the Planning Commission uphold the Director's action and deny Conditional Use Permit Application No. C-12-026, which requests the removal of the condition noted above. The Development & Resource Management Department finds that Conditional Use Permit No. C-12-026 does not comply with Fresno Municipal Code Section 12-405-A-2-c, which states "The proposed use will not be detrimental to the public welfare or injurious to property or improvements in the area in which the property is located".

PROJECT INFORMATION

PROJECT	Conditional Use Permit Application No. C-12-026 requests authorization to remove a Condition of Approval of Conditional Use Permit No. C-99-051, which condition reads: <i>'Beer and malt liquor in containers of 41 oz. or less shall not be sold in units of less than a six pack.'</i> All other conditions of approval to remain unchanged.
APPLICANT	Dirk Poeschel, of Dirk Poeschel Land Development Services, Inc.

LOCATION	1736 East Belmont Avenue, located on the southwest corner of East Belmont Avenue and North Abby Street (APN: 459-071-30) (Council District 7, Councilmember Olivier)		
SITE SIZE	0.38-acres		
LAND USE	Existing	-	Commercial-Mixed Use, Level 2 (Central Area) Planned Land Use
ZONING	Existing	-	Same
PLAN DESIGNATION AND CONSISTENCY	Conditional Use Permit Application No. C-12-026 is proposed in accordance with the <i>commercial-mixed use, level 2 (Central Area)</i> land use identified in the Central Area Community Plan and the 2025 Fresno General Plan.		
ENVIRONMENTAL FINDING	Section 15270 of the State of California Public Resources Code states that CEQA does not apply to projects that a public agency rejects or disapproves.		
PLAN COMMITTEE RECOMMENDATION	Council District 7 Implementation Committee has been suspended, and, therefore, has not reviewed this project.		
STAFF RECOMMENDATION	Staff recommends denial of Conditional Use Permit Application No. C-12-026.		

BORDERING PROPERTY INFORMATION

	Planned Land Use	Existing Zoning	Existing Land Use
North	Commercial-Mixed Use Level 2 (Central Area) & Commercial-Mixed Use Level 1 (Central Area)	C-6, <i>Heavy Commercial District</i>	Commercial-Mixed Use Level 1 (Central Area)
South	Commercial-Mixed Use Level 2 (Central Area)	C-6, <i>Heavy Commercial District</i>	Commercial-Mixed Use Level 1 (Central Area)
East	Commercial-Mixed Use Level 2 (Central Area)	C-6, <i>Heavy Commercial District</i>	Commercial-Mixed Use Level 2 (Central Area)
West	Commercial-Mixed Use Level 2 (Central Area)	C-6, <i>Heavy Commercial District</i>	Commercial-Mixed Use Level 2 (Central Area)

ENVIRONMENTAL FINDING

Conditional Use Permit Application No. C-12-026 requests authorization to remove a Condition of Approval of Conditional Use Permit No. C-99-051, which condition reads: *'Beer and malt liquor in*

containers of 41 oz. or less shall not be sold in units of less than a six pack.' All other conditions of approval to remain unchanged. Because the Department has denied approval of this project, CEQA does not apply.

BACKGROUND / ANALYSIS

The applicant, Dirk Poeschel, of Dirk Poeschel Land Development Services, Inc., on behalf of Devinder Dhariwal, has filed Conditional Use Permit Application No. C-12-026, requesting authorization to remove a Condition of Approval of Conditional Use Permit No. C-99-051, which condition reads: *'Beer and malt liquor in containers of 41 oz. or less shall not be sold in units of less than a six pack.'* All other conditions of approval to remain unchanged.

The project is located on the southwest corner of East Belmont Avenue and North Abby Street.

On August 29, 1995, the Fresno City Council adopted Resolution No. 95-227 officially delegating the Director of the Development Department as the authorized representative to issue findings and make determinations associated with the crime rate and the concentration or public convenience and necessity of proposed alcoholic beverage license locations pursuant to Section 23958 of the State of California Business and Professions Code.

On May 21, 1999, the Director approved Conditional Use Permit No. C-99-051 for a proposed food mart. After a review of the reported criminal activity in Police Reporting Zone No. 2556 and assessment of the concentration of similar alcoholic beverage sales outlets in Census Tract No. 06.00, the Director found that the public convenience and necessity could be met for the proposed off-sale beer and wine proposed by Conditional Use Permit No. C-99-051. This finding was also based on the Fresno Police Department's conditional support of the proposed alcoholic beverage sales use, subject to the applicant's compliance with the Police Department conditions, which include the condition that *'Beer and malt liquor in containers of 41 oz. or less shall not be sold in units of less than a six pack.'* This condition was also among the conditions of approval of the prior conditional use permit for the site: Conditional Use Permit No. C-97-132.

According to the comment letter from the Police Department, dated March 9, 2012, the removal of the subject condition (*'Beer and malt liquor in containers of 41 oz. or less shall not be sold in units of less than a six pack.'*) is expected to lead to an increase in 'calls for service' According to the Police department, single-sale restrictions have been shown to reduce calls for service to the Police Department for such things as panhandling, trespassing, loitering, and sales of alcohol to minors, among other complaints. Removing the 'single-sales' prohibition is a weakening of the purpose of the Conditional Use Permit: to protect the public health, safety, and welfare of patrons and neighbors. Because of this, the proposed deletion of the 'single-sales' condition does not comply with the goals and policies of the 2025 Fresno General Plan and the Central Area Community Plan, nor with Fresno Municipal Code Section 12-405-A-2-c, which states "The proposed use will not be detrimental to the public welfare or injurious to property or improvements in the area in which the property is located".

Although the prohibition on 'single-sales' is not imposed on ABC CUPs, currently, the City is under no obligation of law to remove such a condition from a previously approved CUP because the statute of limitations for such action expired more than a decade ago.

DISTRICT 7 PLAN IMPLEMENTATION COMMITTEE

The District 7 Plan Implementation Committee does not review special permit applications at this time.

NOTICE OF PLANNING COMMISSION MEETING

The Development and Resource Management Department mailed notices of this Planning Commission hearing to all surrounding property owners within 350 feet of the subject site on July 20, 2012, pursuant to Section 12-326-G-2 of the FMC. Only two comments have been received, to date: The Applicant's appeal and a statement in favor of the Department's denial received from the staff of the Downtown and Community Revitalization Division.

FINDINGS

No special permit may be issued unless it is found that the privilege exercised under the permit, conforms to the findings of 12-405-A-2 of the FMC. Based upon analysis of the conditional use permit application, staff concludes that all of the required findings *cannot be made* for Conditional Use Permit Application No. C-12-026.

Findings per Fresno Municipal Code Section 12-405-A-2	
a. <i>All applicable provisions of this Code are complied with and the site of the proposed use is adequate in size and shape to accommodate said use, and accommodate all yards, spaces, walls and fences, parking, loading, recycling areas, landscaping, and other required features; and,</i>	
Finding a:	Conditional Use Permit Application No. C-12-026 does not affect compliance with applicable codes, including parking, landscaping, walls, etc., because there is no new development proposed with this project.
b. <i>The site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use; and,</i>	
Finding b:	Adjacent streets were assessed during the initial development of the subject site to ensure that the development would have less than significant impacts on traffic and the surrounding community. Neither the retention nor the removal of the 'single-sale' condition of approval is expected to change this finding.
c. <i>The proposed use will not be detrimental to the public welfare or injurious to property or improvements in the area in which the property is located. The third finding shall not apply to uses which are subject to the provision of Section 12-306-N-30 of the FMC.</i>	

Finding c:	<p>The proposed deletion of the 'single-sale' condition shall have a negative impact on both the subject site, and neighboring properties given that the neighbourhood is over concentrated for alcohol licenses and is a high crime area, according to the Police Department. Keeping the 'single-sales' prohibition in force prevents an increase of 'calls for service' to the Police Department. Single-sale restrictions have been shown to reduce calls for service to the Police Department for such things as panhandling, trespassing, loitering, and sales of alcohol to minors, among other complaints. The Conditions of Approval adopted by Conditional Use Permit C-97-132, and re-adopted in Conditional Use Permit C-99-051 are intended to help protect the public health, safety, and welfare of patrons and neighbors, alike.</p> <p>Approval of the special permit would be in violation with applicable provisions of the Fresno Municipal Code (FMC § 12-405-A-2-c), including the determination that all findings have been made relative to the issuance of a conditional use permit for the proposed project.</p>
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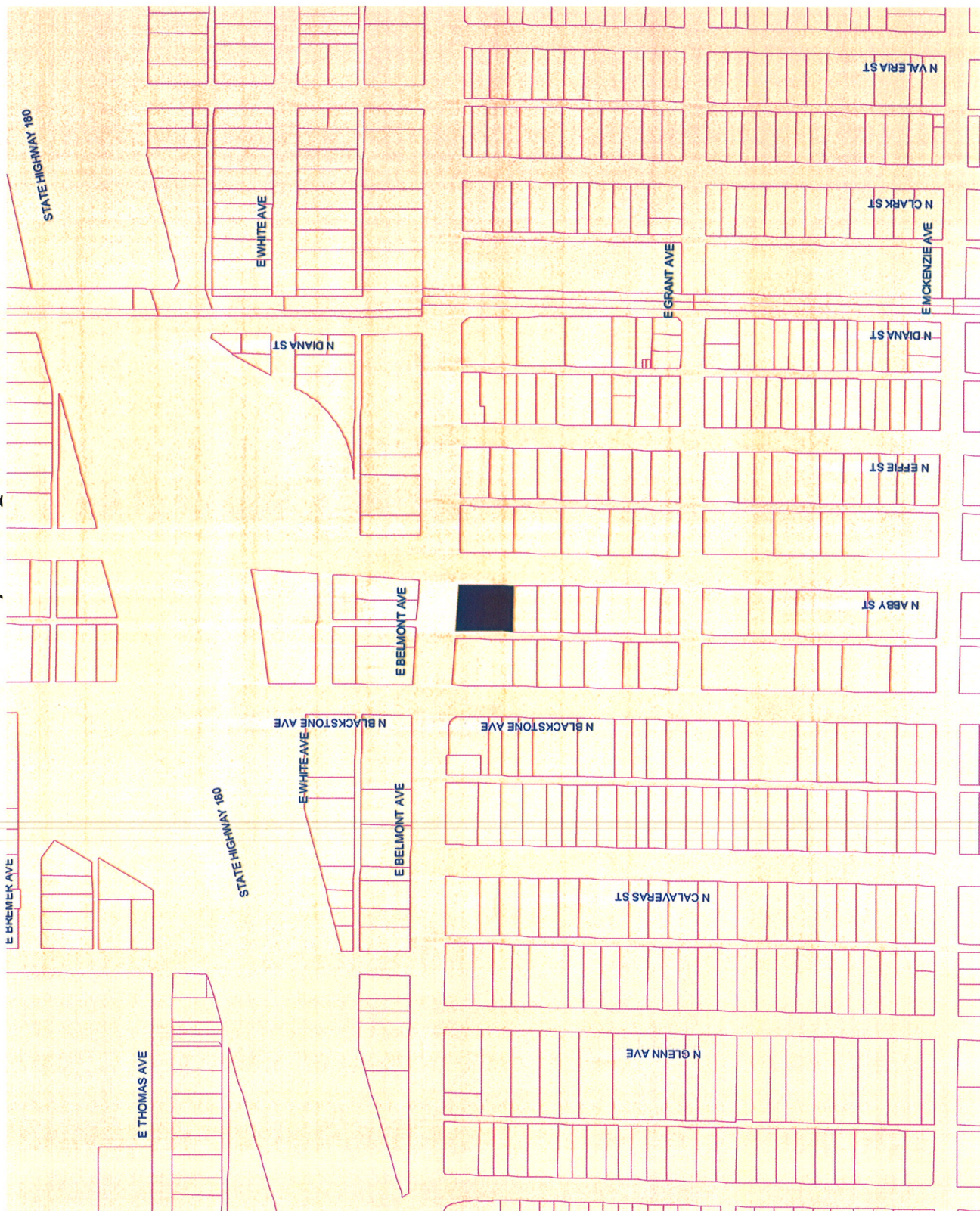
Attachments:

- Vicinity Map
- 2008 Aerial Photograph of site
- Noticing Map (350 foot radius)
- Exhibit A, Site Plan, dated March 7, 2012
- Exhibit F, Floor Plan, dated March 7, 2012
- Operational Statement dated March 7, 2012
- City of Fresno Police Department Comments, dated March 9, 2012
- Applicant's Appeal, dated July 9, 2012
- Downtown & Community Revitalization e-mail, dated March 13, 2012

A. Vicinity Map

A. Vicinity Map

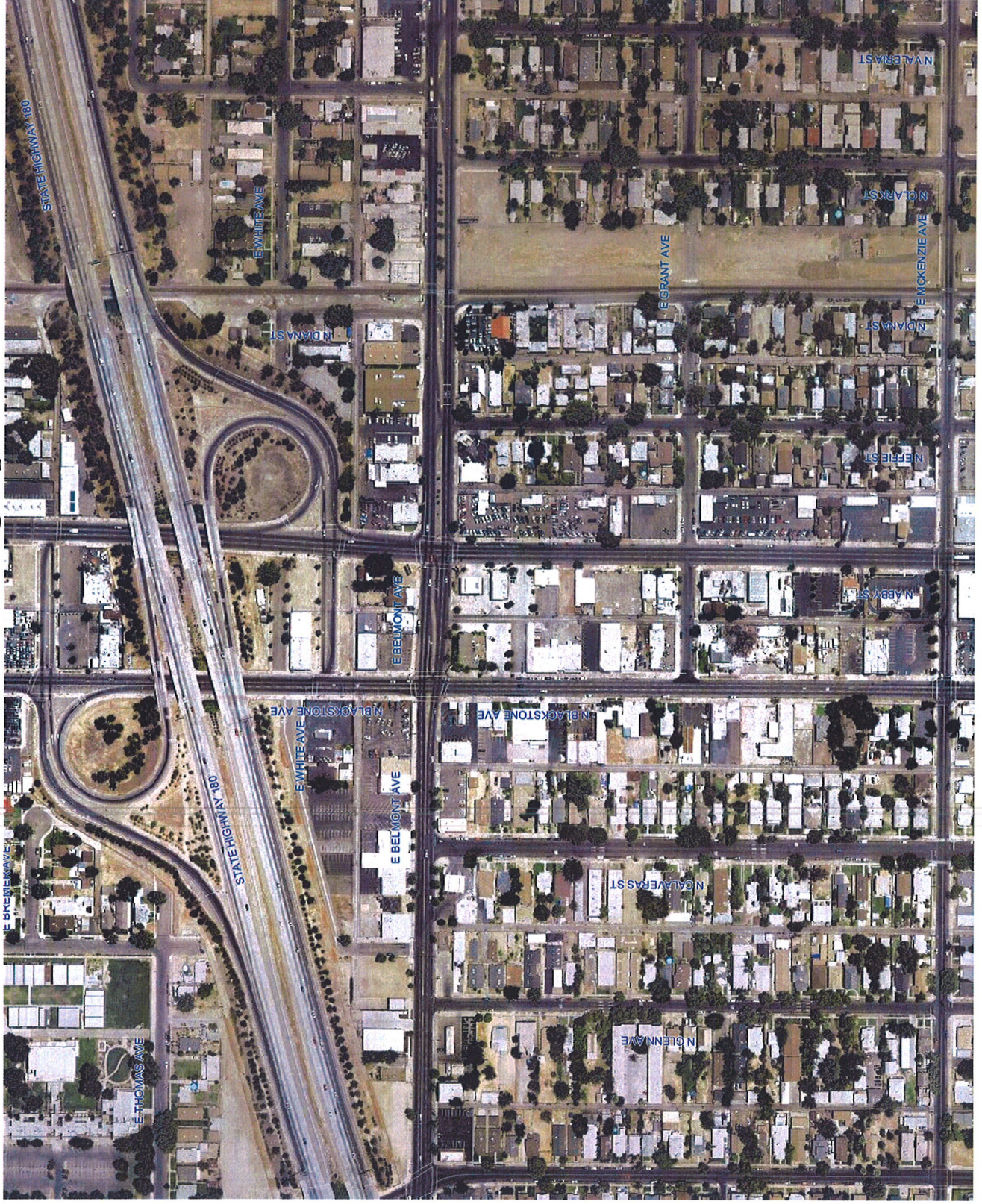
Vicinity Map



B. Aerial Photograph

B. Aerial Photograph

Aerial Photograph



C. Noticing Map

C. Noticing Map



D. Exhibit A (Preliminary)

D. Exhibit A (Preliminary)

E. Exhibit F(Preliminary)

E. Exhibit F (Preliminary)

F. Operational Statement

F. Operational Statement

Mr. Devinder Dhariwal
Conditional Use Permit Operational Statement
February 29, 2012



**Applicant &
Property Owner:**

Mr. Devinder Dhariwal
1736 E. Belmont Ave.
Fresno, CA 93701

Project Site:

1736 E. Belmont Ave.
Fresno, CA 93701

Representative:

Dirk Poeschel Land Development Services, Inc.
923 Van Ness Ave., Suite 200
Fresno, CA 93721

APN:

459-071-30

Zoning:

C-6 (Heavy Commercial)

Area:

0.38+/- acres

Plan Area:

Central Area Community Plan

Specific Plan:

Fulton-Lowell Specific Plan

Location:

1736 E. Belmont Ave.

REQUEST

The applicant is requesting approval to remove a Conditional of Approval regarding Conditional Use Permit No. 99-051. The condition reads,

“Beer and malt liquor in containers of 41 oz. or less shall not be sold in units of less than a six pack.”

All other Conditions of Approval shall remain the same.

BACKGROUND

The mini-market/gas station was approved with Conditional Use Permit No. 97-132. Conditional Use Permit No. 99-051 to allow the off-sale beer and wine alcoholic beverage land use was approved by then Development Department Director Al Solis on May 21, 1999. A copy of the Notice of Granting to the Department of Alcoholic Beverage Control is enclosed. A copy of the July 1, 1999 Finding of Positive Public

Convenience and Necessity for Proposed Off-Sale Beer and Wine Alcoholic Beverage Sales at 1736 East Belmont is also enclosed.



Justification

The condition to prohibit the single can sales was included in the April 5, 1999 letter from the City of Fresno Police Department to Mr. Stan Dilbeck in the Planning Division. A copy of the April 5, 1999 letter is enclosed. Since that time the Fresno Police Department no longer conditions the off-sale beer and wine alcoholic beverage land use to prohibit single can sales. Mr. Dhariwal's competitors do not have this restriction. Mr. Dhariwal loses business because of this restriction that is no longer applied equally. Therefore, he requests that the condition "Beer and malt liquor in containers of 41 oz. or less shall not be sold in units of less than a six pack," be removed. All other Conditions of Approval will remain the same. The site is well maintained. Those operators who maintain their site and comply with all regulations should be allowed to sell single cans of alcohol.

Enclosures

G:\WPDOCS\Dhariwal 11-44\02-29-12 CUP operational statement.doc

G. City of Fresno Police Department Comments

G. City of Fresno Police Department Comments

**CITY OF FRESNO - DEVELOPMENT AND RESOURCE MANAGEMENT DEPARTMENT
REQUEST FOR COMMENTS, CONDITIONS, ENVIRONMENTAL ASSESSMENT,
AND ENTITLEMENT APPLICATION REVIEW OF
CONDITIONAL USE PERMIT APPLICATION NO. C-12-026 - ABCUP**

Return Completed Form to:

Jack Van Patten

Email: Routing@fresno.gov

Telephone: 559-621-8277

Development and Resource Management

2600 Fresno Street, Third Floor

Fresno CA 93721-3604

PROJECT DESCRIPTION AND LOCATION:

Conditional Use Permit Application No. C-12-026-ABCUP was filed as a minor amendment by Dirk Poeschel, on behalf of Devinder Dhariwal, and pertains to 0.38 acre of property located on the south side of East Belmont Avenue between North Blackstone and North Abby Avenues. The applicant requests the removal of a condition of Conditional Use Permit No. C-99-051. The condition currently prohibits single can sales ("beer and malt liquor in containers of 41 ounces or less shall not be sold in units of less than a six pack"). The applicant has a current State of California Alcoholic Beverage Control Type 20 license (*Package Store - sale of beer and wine for consumption off the licensed premises where sold*). The property is zoned C-6 (*Heavy Commercial*).

APN: 459-071-30

ZONING: C-6

ADDRESS: 1736 East Belmont Avenue

DATE ROUTED: March 8, 2012

COMMENT DEADLINE: March 23, 2012

If no response is received by the comment deadline, it will be assumed you have no comments to submit.

WILL THIS PROJECT AFFECT YOUR AGENCY/JURISDICTION? (If yes, specify.) **YES - THE ADDITIONAL LOCATION WILL HAVE AN IMPACT ON POLICE CALLS FOR SERVICE. SINGLE-SALE RESTRICTIONS HAVE BEEN SHOWN TO REDUCE C.F.S. INVOLVING, AMONG OTHERS, PANHANDLING, TRESPASSING, LOITERING, & SALES OF ALCOHOL TO MINORS.**

SUGGESTION(S) TO REDUCE IMPACTS/ADDRESS CONCERNS:

DENY REQUEST FROM APPLICANT TO REMOVE CONDITION WHICH CURRENTLY PROHIBITS SALES OF ALCOHOLIC BEVERAGE IN SINGLE-SERVING AMOUNTS.

REQUIRED CONDITIONS OF APPROVAL:

WE RECOMMEND THE CONDITIONS STAY THE SAME WITH "NO" SINGLE SALES ALLOWED.

IS ANY ADDITIONAL INFORMATION NEEDED FOR YOU TO COMPLETE YOUR REVIEW? (Be specific):

REVIEWED BY:

Aug 2 - CAPTAIN FPD 621-6100

3/9/12

Name and Title

Telephone Number

Date

**CITY OF FRESNO
DEVELOPMENT DEPARTMENT
NOTICE OF GRANTING OF SPECIAL PERMIT
CONDITIONAL USE PERMIT NO. C-99-051**

NOTICE IS HEREBY GIVEN that the Director of the Development Department, in accordance with Special Permit Procedure of the Fresno Municipal Code Section 12-406, has approved Conditional Use Permit NO. C-99-051 filed by Yu-Sheng Sung and Tien Yung to authorize the sale of alcoholic beverages (off-sale beer and wine) on the property located at 1736 East Belmont Avenue.

The special permit has been granted subject to the following conditions:

1. Development shall take place in accordance with Exhibits A, B and L, dated March 22, 1999, on file in the Development Department.
2. Those conditions listed in the Police Department letter dated, April 5, 1999 and NO window advertising of alcohol sales.

The Special Permit will not become effective until 15 days from the date the permit is granted in order to allow time for any interested parties to file an appeal.

In the event you wish to protest the Director's decision, you may do so by filing a written appeal with the Director. The appeal must include the appellant's interest in, or relationship to, the subject property; the decision or action appealed, and specific reason(s) why the appellant believes the decision or action should not be upheld.

Any written appeal must be submitted to this office prior to 5 p.m.

June 5, 1999.

For additional information regarding this project, contact Stan Dilbeck, Development Department, Planning Division, Project Evaluation Section, 2600 Fresno Street, Fresno, California 93721-3604, or by phone at (209) 498-4452.

DEVELOPMENT DEPARTMENT



Alvin P. Solis, Director

Dated: 5-21-99

Assessors Parcel No. 459-071-04, 05, 28 and 29



2600 Fresno Street • Third Floor
Fresno, California 93721-3604
(559) 498-1591 FAX (559) 498-1012

Development Department

Alvin P. Solis, AICP
Director

July 1, 1999

Please reply to:
Stan Dilbeck
(559) 498-4452

6/30/99

Joseph Cruz, District Administrator
Department of Alcoholic Beverage Control
3640 East Ashlan Avenue
Fresno, California 93726

Dear Mr. Cruz:

SUBJECT: FINDING OF POSITIVE PUBLIC CONVENIENCE AND NECESSITY FOR PROPOSED
OFF-SALE BEER AND WINE ALCOHOLIC BEVERAGE SALES AT 1736 EAST BELMONT
AVENUE; FOR CONDITIONAL USE PERMIT APPLICATION NO. C-99-051, (d.b.a. "888
FOODMART, LLC"), APN: 459-071-04, 05, 28 & 29; ZONE DISTRICT C-6

On August 29, 1995, the Fresno City Council adopted Resolution No. 95-227, which officially delegated the Director of the Development Department as the authorized representative to issue findings and make determinations associated with the crime rate and concentration and/or public convenience and necessity of proposed alcoholic beverage license locations pursuant to Section 23958 of the State of California Business and Professions Code.

On May 21, 1999, the Development Department Director approved Conditional Use Permit No. C-99-051 for the proposed food mart. After a review of the reported criminal activity in Police Reporting Zone No. 2556 and assessment of the concentration of similar alcoholic beverage sales outlets in Census Tract No. 06.00, the City of Fresno Development Department Director herein finds that the public convenience and necessity can be met for the proposed off-sale beer and wine alcoholic beverage sales land use proposed by Conditional Use Permit No. C-99-051. This finding is also based upon the Fresno Police Department's conditional support of the proposed alcoholic beverage sales use, subject to the applicant's compliance with the Police Department conditions, as stated in their attached memorandum dated, April 5, 1999.

Therefore, pursuant to Section 23958 of the Business and Professions Code, it is hereby determined by the City of Fresno that the "off-sale beer and wine" alcoholic beverage ("Type 20" ABC license) use proposed for the above-described facility does serve the public convenience and necessity; and that its location does not constitute undue concentration of such alcoholic beverage sales businesses in the immediate vicinity or within Census Tract No. 06.00.

If you have any questions or concerns regarding this matter, do not hesitate to contact Stan Dilbeck, Planner III, at 498-4452, of the Planning Division, Project Evaluation Section, Development Department.

Sincerely,

DEVELOPMENT DEPARTMENT

Alvin P. Solis
Director

c: ABC Licensee
Mayor James Patterson
City of Fresno Council Member Ronquillo, District No. 3
Fresno Police Department
Conditional Use Permit No. C-99-051
Job Address File

MSD:lcl:K\ABC\C-99-051-LTR

City of



Mariposa Mall
P.O. Box 1271
Fresno, California 93716-1271

Police Department

Ed Winchester
Chief of Police

April 5, 1999

Stan Dilbeck
Planning Division
2600 Fresno Street
Fresno, CA 93721-3604

Reference: C-97-132

Mr. Dilbeck,

The Fresno Police Department has received a copy of an application that has been re-filed with your department for an alcohol sales license at the existing convenience store located at 1736 E. Belmont.

This location is located in Sector I, zone 2556. This area's boundaries are Blackstone on the west, Belmont to the north, Divisadero to the south and Fourth street to the east. From the date of the original application, July 11, 1997 to present, April 5, 1999, the Fresno Police Department has responded to 101 Alcohol related calls for service. This area is widely know for narcotic and transient activity.

According to the California Bureau of Alcoholic Beverage Control, this area is already over saturated with Type 20 off sale beer and wine licenses. Zone 2556 is allowed only nine (9) Type 20 licenses. Currently ten (10) Type 20 licenses are in existence in this zone.

Based on the above, another Type 20 license will only put a strain on police resources in the area. However, the Fresno Police Department will not protest the application as long as the applicant agrees to the following alcohol and building conditions.

Property Conditions:**1. Landscaping.**

The landscape design that is in place with surrounding business's and/or shopping centers should continue.

2. Graffiti.

Any graffiti painted or marked upon the premises or on any adjacent area under the control of the licensees shall be removed or painted over within 48 hours of being applied.

3. Security Lighting.

Property owners will equip the front of the premises facing Belmont and Abby Avenues with lighting of sufficient power to illuminate and make easily discernible the appearance and conduct of all persons on or about the parking lot.

4. Surveillance Cameras.

A functional video camera must be in place to record the activity of customers on the premises. The camera or a monitor shall be visible to customers. Any videotapes of criminal activity shall be given to the Fresno Police Department as it deems necessary.

5. Litter.

The petitioner will be responsible for maintaining the property free of litter. This includes the areas adjacent to the premises.

6. Loitering.

The store proprietor (s) will regularly police or visually survey the area under their control and/or in the immediate vicinity of the store to prevent loitering of persons about the premises.

7. Real Property Responsibility.

The applicant will agree that more than fifty (50) calls for service per year at the business is considered unacceptable. Unrelated police calls at the business, (i.e., vehicle burglary, traffic accidents, unrelated disturbances) will be exempt. The applicant should understand any excessive number of calls for police service will result in the possible revocation of their license.

8. Pay Phones.

Payphones shall only operate during store hours and shall be programmed not to receive incoming calls. If payphones become a problem, they shall be removed at the request of the Fresno Police Department.

9. Property Posting.

The applicant shall post the property with the appropriate municipal code signs advising that the consumption of alcoholic beverages, loitering and gambling in the parking area will be in violation of municipal ordinances. The property owner/manager will keep on file a current copy requesting and authorizing enforcement action by the Fresno Police Department. The property owner/manager will have a current copy on file with the applicable Area Commander for enforcement action.

10. Illegal Drugs.

The establishment will not allow illegal drugs to be sold, ingested, injected, or inhaled in the building premises or on any adjacent property under its control.

11. Alcohol.

No alcoholic beverages will be consumed on any property on or adjacent to the premises under the control of the business without proper Alcoholic Beverage Control Licensing.

No wine shall be sold with an alcoholic content greater than 15 % by volume.

Beer and malt liquor in containers of 41oz. or less shall not be sold in units of less than a six pack.

Wine shall not be sold in bottles smaller than 750ml and wine-coolers shall not be sold in units of less than a four pack.

There shall be no exterior advertising of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages.

No person under the age of 21 shall sell or package alcoholic beverages.

12. Hours of Operation.

The store hours will be limited to 4:30 AM to 11:00 PM as proposed.

Should the licensee fail to meet any of these conditions or those specified in the State ABC license, immediate revocation may result.

Sincerely,

SGT. Dave Bellumaker

FOR Captain Marty West
Central District Commander

FRESNO POLICE DEPARTMENT

I agree to the above conditions:

Tien-Yung Miao
CUP Applicant or Authorized Representative

Tien-Yung Miao
Print Full Name

4-9-99
Date

H. Applicant's Appeal

H. Applicant's Appeal

DIRK POESCHEL

Land Development Services, Inc.

923 Van Ness Avenue, Suite 200 • Fresno, California 93721

559/445-0374 • FAX: 559/445-0551 • email: dpoeschel@dplds.com

July 9, 2012

Via E-Mail: mark.scott@fresno.gov & Linda.Cunha@fresno.gov

Mr. Mark Scott
City Manager
Fresno City Hall
2600 Fresno St., 2nd Floor
Fresno, CA 93721

SUBJECT: Appeal to Conditional Use Permit (CUP) No. 12-026

Dear Mr. Scott:

This letter shall serve as my client, Mr. Devinder Dhariwal's written request to appeal the Development and Resource Management Director's July 9, 2012 denial of our request to remove a condition of previously approved CUP 99-051. We are appealing for a variety of reasons which we have discussed with your staff.

Additionally, we request that the matter be scheduled before the City of Fresno Planning Commission at their August 1, 2012 meeting. If you have any questions, please feel free to contact me.

Sincerely,



Dirk Poeschel, AICP

c: Ms. Sophia Pagoulatos
Mr. Jack Van Patten
Mr. Mike Sanchez
Mr. Devinder Dhariwal

I. Downtown & Community Revitalization E-mail

I. Downtown & Community Revitalization E-mail

Jack VanPatten

From: Wilma Quan
Sent: Tuesday, March 13, 2012 2:35 PM
To: Jack VanPatten
Cc: Elaine Robles-McGraw
Subject: FW: Request for Comment - C-12-026 ABCUP minor amendment to remove condition and allow single can sales

Importance: High

Hi Jack,

Hope you are well. If I recall, you are the planner processing C-12-026, correct? If so, please see comments below from DCR regarding the minor amendment.

Thanks,

Wilma Quan
Urban Planning Specialist
City of Fresno
2600 Fresno Street, Room 2156
Fresno, CA 93721
Main: (559) 621-8350
Direct: (559) 621-8371
www.fresno.gov

-----Original Message-----

From: Elaine Robles-McGraw
Sent: Tuesday, March 13, 2012 2:32 PM
To: Wilma Quan; Craig Scharton
Subject: RE: Request for Comment - C-12-026 ABCUP minor amendment to remove condition and allow single can sales

Wilma

I was on the ground in Lowell yesterday during the noon hour with the Community Revitalization Senior. While we were out, we went by this site and as we went West on Belmont, I noted that the convenience store about 4 blocks west of this site in Lowell, had approximately 10-12 people hanging out in front of the store, several of them were drinking single beers, right

out in the open. It did not make for an inviting environment. I would NOT have gone in under any circumstances.

It is my strong opinion that this "minor amendment" is of no benefit to the community in which this store is located. Please let me know if you have any questions. Thank you for the opportunity to comment.

Elaine

From: Wilma Quan
Sent: Friday, March 09, 2012 12:34 PM
To: Elaine Robles-McGraw; Craig Scharton
Subject: FW: Request for Comment - C-12-026 ABCUP minor amendment to remove condition and allow single can sales

Hi Elaine,

Below is an application to remove a condition to an existing ABC-CUP to allow the sale of single beers or malt liquor. It will go before the F/L DRC on 3/19. I'd like to get your comments prior to the meeting....

WQ

From: Fresno Development Services
Sent: Thursday, March 08, 2012 2:57 PM
To: Gregory Garner; Greg Noll; Wilma Quan; Terry Cox; Colleen Beasley; skahl@co.fresno.ca.us; 'Allen, Glenn'; 'jgardner@co.fresno.ca.us'; 'Vivian.bourbonnais@fresnounified.org'; Heidi Heltne; Clinton Olivier; Claudia Ruiz
Cc: Jack VanPatten
Subject: Request for Comment - C-12-026 ABCUP minor amendment to remove condition and allow single can sales

Routing Partners:

You have been identified as the best contact to provide your department/agency's review and comments for the subject project. Please click the following link and download an electronic copy of the project package for review.

Project Address: 1736 East Belmont Avenue
APN: 459-071-30

<http://m3.fresno.gov/upload/files/74299953/C-12-026electronicrouting.pdf> (click on bookmarks to navigate).

Our preferred method of receiving your comments is via email directly to the planner assigned to this project, Jack.VanPatten@fresno.gov<<mailto:Jack.VanPatten@fresno.gov>>. We look forward to receiving your responses electronically and hearing any comments/suggestions you may have. If you do not have any comments, please communicate a “no comment” response.

Thank you.

Joann Zuniga
City of Fresno Planning Division
559-621-8032

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